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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 23rd March, 1990:—

I

BILL No. XXII OF 1989

A Bill further to amend the Cinematograph Act, 1952.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Cinematograph (Amendment) Act, 1989.

(2) It shall come into force at once.

Short
title
and com-
mence-
ment.

37 of 1952.

2. In section 5B of the Cinematograph Act, 1952 in sub-section (1), after the words "decency or morality, or", the words "depicts sex, violence or a woman in an indecent way or" shall be inserted.

Amend-
ment of
Section
5B.

STATEMENT OF OBJECTS AND REASONS

These days motion pictures are depicting a lot of sex, violence and the women folk in very indecent manner. Though the people have been demanding a ban on such pictures, the Censor Board is not paying proper attention to this aspect and exhibition certificates are given freely to such movies. Sometimes, it is very much embarrassing for the elders to sit with the youngsters of the family and watch such a movie. Therefore, the motion pictures which depict sex, violence or women in indecent manner as a commodity, should not be given the certificate of public exhibition because there are instances of crimes having been committed and women molested after seeing such movies particularly by youngsters. Motion pictures of this type must be stopped by making an explicit provision in the Cinematograph Act.

Hence, this Bill.

BIJOYA CHAKRAVARTY.

II

BILL No. XXV OF 1989

A Bill further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 1989.

Short
title.

2 of 1974.

2. In section 125 of the Code of Criminal Procedure, 1973, in clause (d) of sub-section (1) for the words "five hundred rupees" the words "two thousand rupees" shall be substituted.

Amend-
ment of
section
125.

STATEMENT OF OBJECTS AND REASONS

The Law Commission of India in its one Hundred Thirty-second Report dated April, 19, 1989 and laid on the Table of the Rajya Sabha on August 10, 1989 stressed the need for amending the provisions of Chapter IX of the Code of Criminal Procedure, 1973 in order to ameliorate the condition and mitigate the hardship and distress of neglected women, children and parents. The Commission's Chairman, Shri M. P. Thakkar in his letter submitting the Report to Government has stated that "the subject of the report reflects the genuine and deep concern of the community for the welfare and protection of the legitimate economic rights of the neglected wives, children and parents." The maximum amount of maintenance allowance that can be awarded under section 125 of the Code of Criminal Procedure, 1973 is 500 rupees per month. This statutory ceiling of 500 rupees was fixed in the year 1955 and was retained in the Code of Criminal Procedure, 1973. On account of the steep rise in the prices and cost of living, there is an immediate need to enhance this ceiling of 500 rupees.

The proposed Bill seeks to achieve this objectives.

SATYA PRAKASH MALAVIYA.

III

BILL NO. I OF 1990

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1990. Short
title.
2. For article 121 of the Constitution, the following article shall be substituted, namely:— Substitu-
tion of new
article for
article 121.

“121. No discussion shall take place in Parliament with respect to the conduct of any Judge of the Supreme Court or of a High Court or Comptroller and Auditor-General of India in the discharge of his duties except upon a motion for presenting an address to the President praying for the removal of the Judge or Comptroller and Auditor-General of India as hereinafter provided.”. Restriction
on discus-
sion in
Parliament.

STATEMENT OF OBJECTS AND REASONS

Recently there has been personal and unwarranted criticism of the office of the Comptroller and Auditor-General of India in the Parliament and, therefore, a demand has followed that Constitutional immunity against personal attacks on this office should be provided on the lines of the privileges enjoyed by the courts and the legislatures.

There was a near unanimity in the Constituent Assembly that the CAG "is the most important functionary under the Constitution in his position as the watchdog of the country's finances; and that in a democracy, while it was for the legislature to sanction and for the executive to spend monies, the Comptroller and Auditor-General had to scrutinise that the monies sanctioned by the legislature were properly spent by the executive."

Dr. B. R. Ambedkar participating in the debate in Constituent Assembly emphasising the immunity of this sensitive office from interference by the executive said "personally, speaking for myself, I am of opinion that this holder of office is probably the most important officer under the Constitution of India. He is the one man who is going to see that the expenditure voted by Parliament is not exceeded or varied from what has been laid down by Parliament in what is called the APPROPRIATION ACT. If this functionary is to carry out the duties and his duties, I submit, are for more important than the duties even of the judiciary, he should have been certainly as independent as judiciary. But comparing the Articles about the Supreme Court and the Articles relating to the Auditor-General, I cannot help saying that we have not given him the same independence which we have given to the judiciary, although I personally feel that he ought to have far greater independence than the judiciary itself."

In 1954, Dr. S. Radhakrishnan describing the importance of CAG remarked "Ours is a poor country, its resources are limited and we cannot afford to risk any kind of waste and, therefore, the Audit Department will have to look upon their functions as functions of the greatest public utility by pointing out errors and by showing where and how we can remove abuses, effect economy, increase efficiency and reduce waste of expenditure".

There is a similarity in the constitutional provisions relating to the mode of appointment and procedure for removal for the Supreme Court Judges and the CAG. The oath prescribed by the Constitution for the CAG is the same as that of a Judge of the Supreme Court. The Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971 provides that "There shall be paid to the CAG a salary which is equal to the salary of the Judge of the Supreme Court and that he shall be entitled to a pension which is equal to the pension payable to a Judge of the Supreme Court."

Both a Judge of the Supreme Court and the CAG are required to vacate their offices on attaining the age of sixty-five years.

CAG is expected to do his job and discharge his Constitutional duties and obligations without fear or favour, affection or illwill. This is high time to protect the CAG from personal and unwarranted attacks and also to take adequate steps to safeguard the autonomy and independence of the institution and also to provide him constitutional immunity.

Hence this Bill.

SATYA PRAKASH MALAVIYA.

IV

BILL No. II of 1990

A Bill further to amend the Indian Penal Code.

Enacted by Parliament in the Forty first Year of the Republic of India as follows:—

Short
title
and
com-
mence-
ment.

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 1990.

(2) It shall come into force with immediate effect.

Amend-
ment of
section
376.

2. In section 376 of the Indian Penal Code,—

45 of 1860.

(i) In sub-section (1) for the words, brackets and figure "sub-section (2)" the words, brackets and figures "sub-sections (2) and (3)" shall be substituted.

(ii) In the proviso to sub-section (1) for the words "the Court may," the words "the court, after hearing the woman subjected to rape and any social organisation of woman that may desire to be heard, may", shall be substituted;

(iii) In the proviso to sub-section (2),

(a) for the words "the court may", the words "the court, after hearing the woman subjected to rape and any social organisation of women that may desire to be heard, may," shall be substituted.

(b) After *Explanation* 3 of the following *Explanation* shall be inserted, namely:—

"*Explanation* 4.—The character of a woman subjected to sexual intercourse punishable as an offence under this section or sections 376A to 376D shall not be taken into account in deciding the quantum of punishment."

(iv) after sub-section (2) the following sub-section shall be inserted, namely:—

"(3) Notwithstanding anything contained in sub-section (2), whoever commits rape on a woman when she is under five years of age shall be punished with death."

STATEMENT OF OBJECTS AND REASONS

The Supreme Court in its recent judgement reduce the quantum of punishment imposed on certain police officers who were convicted for raping a woman on the ground that the woman concerned was of easy virtue. The character of a lady should have been considered irrelevant in the matter of deciding the quantum of punishment for rape. Once an offence of rape is established, the question of character of the woman becomes irrelevant for the simple reason that notwithstanding the nature of the personal character of any woman or her social circumstances, her dignity and honour cannot be permitted to be subjected to deprivation by any person. No woman, notwithstanding any personal weaknesses, can be subjected to sexual intercourse against her will i.e. without her consent. This is even more serious when the guardians of law are involved in such cases.

The existing law does not contemplate the character of a woman to be taken as the mitigating circumstance for reducing the quantum of punishment. However, to make the position more clear, it is necessary to amend the provisions of the Indian Penal Code relating to the offence of rape and connected offences.

Several woman's organisations in the country have expressed their resentment against the judgement of the Supreme Court. Some of them have requested the Chief Justice of India to direct a review of the judgement. It is, however, desirable that instead of spending time on awaiting the action of the Supreme Court in the matter, Parliament should amend the Code with a view to providing the women's social organisations should be heard, if they so desire, if the court thinks that there are special reasons for awarding lesser punishment than the minimum provided for an offence.

Similarly, in the recent past baby girls of below five years, in some cases even below one year were raped by adult males. The punishment provided in the present law is not sufficient for such beasts. Such rapists of infants must be punished with death penalty.

Hence this Bill.

BIJOYA CHAKRAVARTY

V

BILL No. IV OF 1990.

A Bill to provide for a comprehensive policy for the development of the Youth in the country.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Youth Welfare Act, 1990.
- (2) It extends to the whole of India.
- (3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

(a) 'appropriate Government' means in the case of a State, the State Government and in the case of a Union territory, the Union Government;

(b) 'youth' means all persons between fifteen and twenty-five years of age;

Short
title,
extent
and
com-
mence-
ment,
Defini-
tions.

(c) 'youth organisation' means an organisation of youth which provides for universal membership without any discrimination on the basis of race, religion, language, caste or sex and the constitution of which provides for its democratic functioning in respective States or Union territories, as the case may be.

Compul-
sory and
free
educa-
tional
facilities.

3. The appropriate Government shall provide to the Youth—

- (a) compulsory and free education including technical education;
- (b) materials like books, stationery etc. free of cost.
- (c) free hostel facilities; and
- (d) scholarships to deserving students.

Partici-
pation of
youths in
manage-
ment or
adminis-
tration of
schools
etc.

4. (1) The youth shall have representation in the management or advisory boards at all levels of administration for schools and institutions of higher and specialised education.

(2) There shall be formed Students unions in all educational institutions through elections by secret ballot.

Sports
facilities
to youths.

5. The appropriate Government shall provide—

- (a) facilities to the youth for participation in sports activities both within and outside the country;
- (b) finances to sports organisations for supply of sports material to the youth;
- (c) representation to youth organisations is sports associations and similar other bodies; and
- (d) for the well being of a sportsman, who represents the country in any sporting event, throughout his life time.

Provi-
sions of
nutri-
tious
meals
in
schools,
etc.

6. The appropriate Government shall provide nutritious meals free of cost to all students in schools, colleges, universities and hostels.

Medical
care to
the
youth.

7. The appropriate Government shall provide medical and health care to the youth free of cost.

Training
of youths
in trade,
voca-
tions etc.

8. The appropriate Government shall evolve a scheme under which young girls and boys shall be imparted modern training in apprenticeship in trades, vocations, factories and vocational institutions.

9. The appropriate Government shall appoint an expert committee in every district of the country consisting of eminent educationalists, doctors, psychologists and agriculturists to recommend the type of education or training in any vocation that is to be imparted to a boy or a girl of the district after he or she has passed the tenth class examination.

Appoint-
ment of
expert
commit-
tees.

10. The appropriate Government shall provide proper and gainful employment to the youth after training or financial help, as may be prescribed, in lieu thereof, till they are provided with gainful employment.

Provision
of em-
ploy-
ment.

11. The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

Power to
make
rules.

STATEMENT OF OBJECTS AND REASONS

Even after four decades of independence, no clear-cut youth policy has been laid down so far in our country. After giving a voting right to the youth it is high time that a youth policy is formulated for their proper development and utilisation in the country. In this context, it is utmost important to start a powerful, well orchestrated reform movement under a comprehensive youth policy and to implement it in order to wean away the youth from backward feudal ideology, connected with the colonial era, and to fight against fanaticism, fundamentalism and separatism. The education should be the right of the youth and not a privilege of a few and the employment should be guaranteed to them. The youth should be linked directly with the production process. The disparities between rural and urban youth should be eliminated gradually. The youth today is also facing serious health problems, absolute inadequacy in sports and cultural facilities. Youth belonging to Scheduled Castes, Scheduled Tribes and other backward classes are still reeling under extreme poverty. There is no proper planning for the youth in respect of their comprehensive development and proper utilisation of their energies. A comprehensive youth policy is, therefore, absolutely necessary.

Hence this Bill.

BIJOYA CHAKRAVARTY.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the appropriate Government shall provide compulsory and free education to all youth. It also provides for scholarships to deserving students. Clause 5 provides that appropriate Government shall provide facilities to youth for their participation in sports activities and finance sports federations. It also provides for the welfare of sports persons. Clause 6 provides that the appropriate Government shall provide nutritious diet in schools, colleges, universities and hostels. Clause 7 provides for regular supervision of health and medical care of the youth by the appropriate Government. Clause 8 provides that the appropriate Government shall evolve a scheme under which youth will be given training in factories or vocational institutions. Clause 9 provides for appointment of expert committees to recommend the type of education that is to be imparted to youths. Clause 10 provides that the appropriate Government shall be responsible for providing employment to all youths or unemployment allowance, as may be prescribed, till they are provided employment.

The Bill, if enacted, therefore, would involve expenditure from the Consolidated Fund of India in respect of Union territories.

An annual recurring expenditure of about rupees one hundred crores is likely to be incurred.

A non-recurring expenditure of about rupees two crores is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only and as such the delegation of Legislative power is of a normal character.

SUDARSHAN AGARWAL,
Secretary-General.